

# SENATE BILL REPORT

## ESHB 1663

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As of March 1, 2002

**Title:** An act relating to sentencing of hate crimes.

**Brief Description:** Authorizing an exceptional sentence when a crime is motivated by hate.

**Sponsors:** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives McDermott, O'Brien, Darneille, Ruderman, Murray, Schual-Berke, Romero, Conway, Poulsen and Santos; by request of Governor Locke).

**Brief History:**

**Committee Activity:** Judiciary: 2/25/02.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Aldo Melchiori (786-7439)

**Background:** Malicious harassment is committed when a person causes physical injury, damage to property, or a reasonable fear of harm to persons or property because of the person's perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap. Malicious harassment is a class C felony ranked at level IV on the sentencing grid (three to nine months for a first offense).

Making a false or misleading statement to a public official is a criminal offense if the offender knowingly makes a false or misleading material statement to a public official. This offense is a gross misdemeanor punishable by up to one year incarceration. A "material statement" is a written or oral statement reasonably likely to be relied upon by public servants in the discharge of their official duties or powers.

An offender committing any ranked offense may not appeal the sentence if it is within the standard range for that offense. A court may impose a sentence outside the standard range, however, if it finds substantial and compelling reasons justifying the exceptional sentence. Examples of mitigating and aggravating circumstances justifying an exceptional sentence are provided by statute. Sentences outside the standard range may be appealed.

**Summary of Bill:** In determining whether an exceptional sentence is appropriate, the court may consider whether the offender committed the offense because of the person's perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap. Additionally, if the current offense involved knowingly and maliciously committing the offense of making a false or misleading statement to a public official, the court may consider whether the offender falsely accused another person of committing an offense because of the person's perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This issue was mentioned in the State of the State Address by Governor Locke as a priority for the state. The crimes victimize and breed fear in entire communities, not just the individuals specifically targeted. We cannot say as a nation that we welcome all people when these types of crimes are not adequately punished.

**Testimony Against:** There are already aggravating circumstances that can be used to address these crimes.

**Testified:** PRO: Representative McDermott, prime sponsor; Dick VanWagenen, Governor's Policy Office; Robby Stern, WSLC; Sherry Appleton, WDA/WACDL (concerns).